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ABSTRACT

The activity of private investigations by fraud examiners is a business of lawyers, auditors and other professionals who investigate suspicions of financial crime by white-collar criminals. This article presents results from an empirical study of investigation reports. The available sample consists of 21 report produced mostly by auditing firms such as PwC. Suspicion of financial crime led to police investigation, public prosecution and jail sentence in two cases.

Keywords: Financial crime, white-collar criminals, private investigators, fraud examination, lawyers, auditors, detectives.

BIOGRAPHY

Petter Gottschalk is Professor of Information Systems and Knowledge Management in the Department of Leadership and Organizational Behavior in BI Norwegian Business School, Oslo, Norway. Dr. Gottschalk has published extensively on organized crime, financial crime and law enforcement. He has been CEO of several companies, including ABB Data Cables and Norwegian Computing Center.

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Introduction

Financial crime investigation is a growing business area for law firms, auditing firms, consulting firms and other professional service firms. Financial crime specialists in these firms are investigation suspicions of corruption, insider trading, embezzlement, tax evasion and other kinds of financial crime. Their clients are organizations wanting to investigate facts, causes and responsibilities for an incident or general misconduct. Financial crime specialists apply intelligence, investigation, examination, analysis and hypotheses to establish facts. They perform fact finding, causality study, change study and suspect identification (Machen and Richards, 2004; Morgan and Nix, 2003; Wells, 2003).

The purpose of this article is to present results from an exploratory study of private investigations by fraud examiners in Norway. Specifically, the purpose of this article is to present results for a study of investigation reports produced by law firms, auditing firms and other firms for clients in both the private and public sector.

This research is important, as the business of private investigations is both challenging and supporting police work. It is challenging police work, as evidence can be harmed and prosecution of criminal offences can be carried out by private actors rather than public authorities. Private investigations can sometimes challenge the rule of law by taking on all three roles of police investigator, public prosecutor, and court judge. It is a danger of privatization of court settlement between the community and the criminal.

On the other hand, private investigations can support police work by confirming or disconfirming suspicions of financial crime. Private and public organizations pay the bills from professional service firms to establish the facts.

Financial Crime Specialists

In the UK, the Association of Certified Financial Crime Specialists (ACFS) was created to respond to a growing need for documented, verifiable and certifiable knowledge and skill in the financial crime field and to meet the career development needs of the diverse and growing number of specialists in the private and public sectors who work in this field.

A private investigation is conducted by a variety of private sector financial crime specialists who can be investigators, forensic accountants, or lawyers, all whom may be supported by investigative analysts, who the government usually calls intelligence analysts.

ACFS stresses the importance of the following fourteen topics for financial crime specialists: the challenge of financial crime; financial crime overview, commonalities and convergence; money laundering; understanding and preventing fraud; global anti-corruption compliance and enforcement; tax evasion and enforcement; asset recovery; financial crime investigations; interpreting financial documents; money and commodities flow; compliance programs and controls; data security and privacy; ethical responsibility and best practices; and international agreements and standards.

In the US, the Association of Certified Fraud Examiners (ACFE) was created for similar reasons as the ACFS in the UK. Becoming a certified fraud examiner requires documented academic and professional qualifications. Formal education in the fraud examination field is new and limited (Wells, 2003). The ACFE website (www.acfe.com) addresses the needs of ACFE members and also provides free resources to general public (Anders, 2006). Certified fraud examiners have ample career opportunities, since the CFE certification was created in response to the demand for expertise in fraud prevention and detection (Morgan and Nix, 2003; Wells, 2003).

Fraud examiners in the US can have varying backgrounds. It is not only lawyers, auditors and consultants who work as private investigators. Sociologists and criminologists can also take on tasks as detectives. Examples are mentioned by Kennedy (2013), who writes about forensic sociology and criminology. Investigation by sociologists and criminologists might be concerned about people who have neglected responsibility, people who have abused their positions, or organizations where training and guidelines have been missing.

Thus, fraud examiners encompass a wide array of professions, including auditors, accountants, fraud investigators, loss prevention specialists, attorneys, educators, sociologists and criminologists. While fraud examiners in the US can work independent, many are also member of the ACFE. Fraud examiners provide a broad range of services to businesses and governmental agencies as either employees or independent consultants (ACFE, 2008). A fraud examiner may assist in a fraud investigation by procuring evidence, taking statements, and writing reports (Machen and Richards, 2004).

In balancing the twin goals of disinterestedness and reliability, Machen and Richards (2004) suggest that a company should consider the purpose of the investigation. Where the results are to be used in-house or where the company is simply establishing a fraud prevention system, there is less concern regarding credibility. Thus, a fraud examiner who has knowledge of the business may be a wiser choice in that instance because of such examiner's familiarity with the company. In contrast, where information from the fraud investigation may be subject to scrutiny by those outside the company, the appearance of disinterestedness becomes more critical and the company should consider hiring an independent fraud examiner.

Within the broad category of fraud examiners are forensic accountants who specialize in a unique brand of accounting that departs from the traditional methods employed in the accounting field (Machen and Richards, 2004).

Research Method

The market for private financial crime investigations by fraud examiners has grown in Norway in recent years. Several reasons can be found for this growth. First, compliance by business organizations has become an important issue, especially for corporations trading their stocks on stock exchanges both domestically and abroad. Detecting and preventing financial crime has thus become critical. Second, suspicions of financial crime generally and white-collar crime in particular will harm business reputation, making it imperative to find out what actually happened. Third, Norwegian police does often not have the capacity and competence to investigate complicated business irregularities. Fourth, corporate social responsibility has become an issue on the board agenda in many organizations, where ethical guidelines, anti-bribery activities and other crime-related topics are of increasing importance. Finally, innocent yet suspected individuals, especially when exposed in the media, deserve a fair investigation to prove their innocence.

Private investigations in Norway are carried out by auditing firms such as BDO, Deloitte, Ernst & Young, KPMG, and PwC, as well as by law firms such as Kvale, Lynx and Wiersholm. Fraud examiners in these firms are typically trained as auditors, lawyers and police detectives. In a country of five million people, there are about one hundred partners and associates in these firms who have fraud investigations as their main occupation. In addition, larger banks, insurance firms, oil companies and other organizations have internal investigation departments.

An estimated ten private investigations become publicly known in Norway per year. Out of this number, the current research was able to obtain twenty-one investigation reports from recent years. Access to most investigation reports was denied by the investigation contractor, the client, where typically the investigation took place. Based on the accessed investigation

reports, this article attempts to identify some characteristics of investigation reports listed in Table 1.

#	Case	Investigator	Suspicion	Pages
1	Adecco <i>Nursing and cleaning services business</i>	Wiersholm (2011) law firm	Exploitation of work force in nursing home in terms of low wages and inhuman working hours	22
2	Ahus Public hospital	PwC (2013a) auditing firm	Buying expensive geographical information system services	15
3	Briskeby <i>Football stadium</i>	Lynx (2011) law firm	Over charging for construction work at football stadium	267
4	Eckbo <i>Family foundation</i>	Dobrowen and Klepp (2009) law firm	Executives in ideal foundation for personal gain	119
5	Fadderbarna <i>NGO for children</i>	BDO (2011) auditing firm	Excessive administration costs in NGO	46
6	Furuheim <i>Church foundation</i>	Dalane and Olsen (2006) law firm	Executives in church foundation for personal gain	164
7	Gassnova <i>Carbon capture and storage</i>	BDO (2013) auditing firm	Irregular procurement procedures by employees	27
8	Halden Ishall Sports Ice Arena	KPMG (2012) auditing firm	Excessive cost overrun in reconstruction	121
9	Langemyhr <i>Construction company</i>	PwC (2008a) auditing firm	Fraud by overbilling city work in hours	26
10	Lindeberg <i>Nursing home</i>	Kommune-revisjonen (2013) auditing service	Outside authority of personnel	92
11	Lunde Group <i>Transportation company</i>	Bie (2012) law firm	Fraud and tax evasion for 30 million US dollars	86
12	Moskvaskolen <i>Norwegian school in Moskau</i>	Ernst & Young (2013) auditing firm	Private living expenses for dean covered by school	38
13	Norges Fotballforbund <i>Football association</i>	Lynx (2013) law firm	Football players changing clubs without clubs paying transfer money	48
14	Norsk Tipping <i>Public betting firm</i>	Deloitte (2010) auditing firm	CEO got his house and property maintained for free	61

			by the firm	
15	Oslo Vei <i>Road construction company</i>	Kvale (2013) law firm	Chairman and CEO suspected of fraud after bankruptcy	53
16	Spania <i>City of Oslo project in Spain</i>	PwC (2009) auditing firm	Abuse of public money spent on friends in Spain to build a local hospital for Norwegians	92
17	Terra <i>Cities investing in bonds</i>	PwC (2008b) auditing firm	Outside authority of city management	52
18	Troms Kraft <i>Power supply company</i>	Nergaard (2013) consulting firm	Accounting manipulation in subsidiary and illegal political party support	663
19	Tyrkia <i>City of Stavanger project for children</i>	PwC (2013b) auditing firm	Smuggling of adopted children out of Turkey financed by the city of Stavanger	14
20	Undervisningsbygg <i>School maintenance agency</i>	Kommune-revisjonen (2006a, 2006b) auditing service	Fraud by property managers in the City of Oslo	36
21	Verdibanken <i>Religious bank</i>	Wiersholm (2012) law firm	Investment fraud by bank executive	5

Table 1: Characteristics of reports from fraud examinations by private investigators

First in Table 1, the case name is mentioned. Adecco is a business firm, Ahus is a public hospital, while Briskeby is a football stadium. Eckbo is a family foundation, Fadderbarna is a non-government organization for children care, while Furuheim is a church foundation running homes for elderly. Next in the table, literature reference to investigation reports is listed, using the investigating firm as reference. Suspicion causing the investigation is listed in the next column. Finally, the number of pages in the investigation report is listed.

Making private investigation reports publicly known – as those listed in the table – serves a number of important purposes. Firstly, whistle-blowers receive the required recognition they deserve, and future whistle-blowers can observe that whistle-blowing matters. Next, published investigations can have a preventive effect on potential white-collar criminals and also make white-collar criminals terminate their criminal activities. Publishing enables practical focus

and attention to morale and ethics, where it becomes visible what is acceptable and what is not. Publishing increases the extent of organizational transparency. Publishing enables learning by other organizations that could have ended up in the same situation. When corruption scandals such as the one involving global fertilizer Yara was in the media for weeks and months, the public expects to learn about the truth. Publication can generally lead to new insights about causes of financial crime, and thereby increase awareness among decision makers in society. Finally, available investigation reports can help improve teaching and research at universities. Despite all these good reasons, most private investigations by fraud examiners lead to secrecy of reports.

There are indeed many reasons why most investigation reports are kept a secret. Here are some of our findings from denial of insight into examination reports:

1. *Damage.* The examination report contains business secrets which competitors might take advantage of, and thus cause damage to the business in its markets
2. *Confidentiality.* Lawyers are subject to confidentiality similar to medical doctors and psychologists.
3. *Suspicion.* Some investigation reports are very comprehensive and also describe circumstances for which the suspect was never prosecuted.
4. *Mistakes.* Some investigation reports have serious flaws, mistakes and shortcomings.
5. *Accusations.* The investigation report has a number of unfounded accusations against individual persons, who receive the blame, without being able to defend themselves.
6. *Unsuccessful.* The private investigation by fraud examiners was unsuccessful and a failure. Investigators did not find answers to the questions that initiated the inquiry, and they did not solve problems as expected by the client.
7. *Misconduct.* The private investigation was a failure, because investigators showed misconduct in their work.

8. *Unreadable.* Some private investigation reports are simply not readable.
9. *Disagreement.* Among owners of the organization, there might have been agreement to conduct a private investigation, but agreement can be lacking afterwards concerning publication of the investigation report.
10. *Termination.* Like all other kinds of projects, some investigation projects are terminated before completion. One reason for early termination is the lack of relevance to the organization. Another reason is that the project was premature. A third reason might be that the project went on in a completely wrong direction.
11. *Confidentiality.* Many individuals have provided valuable and sensitive information to private detectives under the assumption and with the promise that their information will never be disclosed.
12. *Evidence.* Sometimes, private investigations are followed by police investigations, which may or may not lead to prosecution and court ruling. If important evidence is leaked to the public, it can harm the court process, both for the prosecutor and for the defendant.
13. *Work.* There is too much work in filing a complaint or case to the police. The police always asks for more information, more documents and more meetings.

Some Case Studies

All twenty-on investigation reports listed in the table were subject to case studies. Here are three examples to illustrate what the cases are about.

THE ECKBO CASE

Eckbo's Legater is one of Norway's largest publicly beneficial and philanthropic foundations. Norwegian registration authority responded in 2007 to information that emerged in

newspapers about the foundations management, where Finn Olaf Eckbo – a third generation Eckbo – received 600.000 US dollars annually to manage the foundations. This was much more than yearly paid out for good causes.

Not only newspaper reports caused the registration authority to respond. An active anti-corruption politician on the very left hand side in politics, Erling Folkvord, wrote about about the Eckbos foundations with the title “they got it both ways”. A number of influential people both in business and politics were linked to the foundations, according to the book, and they all benefited personally from the links. This is despite the mission statement of the foundations, which is to support good causes financially.

Andersland (2008) found that the story was just so amazing that it would have been dismissed as pure robber story if it had not been so uncomfortable well documented. In short, the book is about how significant portions of foundation funds, earmarked for charitable purposes, was used and abused for exorbitant fees, loans and pensions to directors and business managers. The business manager for many years, Rolf Eckbo, was finally - in 1997 - sentenced to five years in prison for financial fraud, and deprived of the right to be a lawyer.

After newspaper reports and the book by Folkvord et al. (2008), private fraud investigators Dobrowen, a lawyer, Klepp, an auditor, were hired. They wrote a report very different from Folkvord’s book. Although they found some signs of waste of funds, they found no misconduct or signs of criminal behavior. In their investigation, the investigators mainly studied documents handed over to them by foundation loyal persons, and they only interviewed foundation loyal individuals.

Dobrowen and Klepp (2009) concluded their investigation with the following findings:

- The organization of asset management in Eckbo Endowments is in the committee's view, in accordance with the requirements of the organization as required by law and the articles of incorporation.

- In the committee's view, the practice of asset management in the period in question occurred in a responsible manner and has thus been in line with the foundation act and statute requirements.

THE LANGEMYHR CASE

Private investigators found Harald Langemyhr guilty of fraud of 22 million Norwegian kroner (PwC 2008a). Police investigators found him guilty of fraud of 12 million Norwegian kroner (Foss, 2010). The district court of Oslo found him not guilty of fraud (Oslo tingrett, 2012b). The case against Langemyhr started when Norwegian Labour Inspection in 2008 suspected the construction company owner of misconduct and crime against the City of Oslo. Five years later, Langemyhr received a replacement of 20 million Norwegian kroner from the City of Oslo based on a new court order. Langemyhr suffered personally and socially for five long years. He was unable to start up his construction company again in 2014.

What went wrong? Were the private investigators wrong, accusation Langemyhr of large-scale fraud? Were police investigators wrong, maybe because they put too much reliance on the private investigation report? Or was the judge wrong, since Langemyhr was maybe guilty of fraud? We will never know.

But we may argue that the private investigators jumped to conclusions based on price estimates for construction work not verified by more than one construction consultant.

THE TYRKIA CASE

Adopted children from Turkey were smuggled out and back to Norway. There were suspicions of several kinds of crime. First, the child care manager in the City of Stavanger, on the west coast of Norway, was suspected of misappropriation of city funds. Next, Norwegian lawyers were suspected of hiding money transactions on client accounts. Then, a private

Norwegian detective who helped get the children out of Turkey was suspected of both corruption and tax evasion. Finally, helpers in Turkey were suspected of being bribed.

It all started in 2006, when two children were under the case and protection of city child care in Stavanger went with their Norwegian foster parents to Turkey on vacation. The children had been taken away from their Turkish parents who lived in Stavanger sometime earlier. While on vacation in Turkey, a Turkish court ruled that the children were not allowed to leave the country.

After the foster parents had returned to Norway without the children, the child care manager in the City of Stavanger transferred half a million Norwegian kroner – about ninety thousand US dollars – to a client account in a law firm in Stavanger. The lawyers Nils Geir Vestvik and Atle Helljesen who received the money from child care manager Gunnar Toresen transferred the money to the bank account of the spouse of private detective Ola Thune. The intention for the irregular money transfer was both to hide tracks to Ola Thune and to pay Thune's helpers in smuggling the two Norwegian-Turkish boys to Norway (Aas et al., 2013).

Many years later, after considerable attention in the media, especially in the daily newspaper *Stavanger Aftenblad* the city control committee decided to initiate a private investigation by fraud examiners from law and auditing firm PricewaterhouseCoopers (PwC). The investigation was carried out examiners Kjell Richard Manskow, Helge Kvamme, Gunnar Holm Ringen, Pål Jæger-Pedersen, Hege Oftedal and Thor Dalhaug from PwC. They write in their report (PwC 2013b: 14):

The fact that part of the amount of money transferred to the attorney Vestvik's private account to a private account in the name of a spouse caregiver appears highly irregular. For this part of the money vouchers are missing that can document how the funds were allocated.

The investigators from PwC were able to trace money transactions, but they were not able to allocate responsibilities to individuals such as the city child care manager, attorneys or detective and wife. Investigators from PwC answered the how-question, but they did not answer who-question or why-question for money transfer. This might be because the mandate for the investigation was focused on transactions (PwC 2013b: 6):

The control committee in Stavanger has decided to initiate an investigation of law firm Projure's accounting and documentation for Stavanger municipality in connection with the payment of a one-time amount from Stavanger municipality to the law firm in 2006 in connection with the so-called "Turkey case". The purpose of the project will be to conduct an inquiry, in which one looks closely at the accounts relating to payment of an amount of 500.000 NOK from Stavanger municipality to law firm Projure with potential subcontractors, and clarify / provide documentation on what these funds were used for.

The mandate thus focused on how-question and not who- or why- question. Thus the roles and responsibilities of actor such as Toresen (city), Vestvik and Helljesen (lawyers), as well as Thune (smuggler) and his wife (money) remained unclear.

Investigators from PwC presented their report to the control committee in the fall of 2013. The committee decided to send the report to the local police. City politicians decided to close the case (Aas et al., 2013; Aas and Ergo, 2013; Berge, 2013; Grimen and Terjesen, 2013; Østebø et al., 2013).

Research Findings

As exploratory research, investigation reports can be studied along the time axis of (i) initiation (investigation start), (ii) work process (investigation procedure), (iii) work results (investigation findings), and (iv) consequence (investigation effects). An investigation report

should clearly state the initiation in terms of background and mandate, describe the investigation process, explain findings from the investigation, as well as suggest points for action. All reviewed twenty-one investigation reports satisfied these requirements, although to a varying degree.

An obvious difference among reports in Table 1 is the length, ranging from 5 to 663 pages. This range does not only reflect investigation scope and work load in terms of dollars paid. Some private investigations are billed for less than one hundred thousand US dollars, while others cost the client several millions. Six Norwegian kroner is the equivalent of one US dollar, and the most expensive investigation did also produce the longest report. The investigation of utility company Troms Kraft did cost 44 million Norwegian kroner and resulted in a report of 663 pages. There is a correlation between money spent on an investigation and the final report length.

Some expensive investigations result in a short report, with the argument that executives and other decision-makers are supposed to read it, not only look through it. For a busy executive, more than one hundred pages of reading are not always acceptable. Bie (2012) did a very thorough and probably also expensive examination of all firms belonging to the Lunde Group. Nevertheless, he shortened his report down to 86 pages.

Out of 21 available reports, 12 were produced by auditing firms, 8 by law firms and 1 by a consulting firm. The average length of auditing firm reports is 52 pages. The average length of law firm reports is 95 pages. Although not statistically significant, this difference is interesting in the sense that lawyers tend to put more emphasis on formality and procedure, while auditors tend to put more emphasis on findings, thereby potentially producing somewhat shorter reports.

Three private investigation reports triggered later police investigations followed by public prosecution. In two cases, suspects were convicted to prison. The third case was dismissed

from court, which is the Langemyhr case described above. A report of only 26 pages (PwC 2008a) was the basis for police investigation and public prosecution in court for several weeks, but the judge criticized the investigation and declared Langemyhr not guilty.

A total of 11 individuals were sentenced to prison after Kommunerevisjonen (2006a, 2006b) public auditing service had investigated fraud by property managers in the City of Oslo. Two persons were sentenced to prison after Bie (2012) in law firm Vierdal had investigated fraud in a myriad of companies in the Lunde Group.

Theory enables private investigators to create an overview over complexities in the real world by offering a verbal tool to organize a common and consistent understanding of reality (Colquitt og Zapata-Phelan, 2007):

A theory might be a prediction or explanation, a set of interrelated constructs, definitions, and propositions that presents a systematic view of phenomena by specifying relations among variables, with the purpose of explaining natural phenomena.

Investigators formulate hypotheses about what might have happened. Hypotheses represent assumptions about occurrences and assumptions about connections and cause-and-effect relationships. A hypothesis is an untested view of reality, a possible explanation of a phenomenon. Did investigators in our case studies formulate and discuss competing hypothesis in their reports? As suggested by Brightman (2009), competing hypotheses represent analysis characterized by thorough examination of alternatives, identification of key bits of data that carry the most diagnostic weight, and painstaking attention to refuting hypotheses.

In the investigation of the Norwegian Football Association conducted by Lynx (2013), the following alternative hypotheses for crime categories were formulated:

1. Risks of misconduct in terms of abuse of funds in football clubs.

2. Risks of criminal behavior by participation in corruption when buying players.
3. Risks of criminal behavior by participation in corruption when selling players.
4. Risks of embezzlement, kick-backs and abuse of funds.
5. Risks of misleading accounting of costs when buying players.
6. Risks of misleading accounting and taxation of income for foreign players.
7. Risks of breaching rules when compensating trainers and reporting trainers' compensation.

These seven hypotheses are alternatives for evidence collected in the investigation. Significant evidence and arguments include not only the facts known, but also the opinions and points of view from analysts on the case and other experts. This type of evidence may result in further critical questioning about what one might expect to be seeing if, in fact, the evidence or opinion presented is indeed true (Brightman, 2009).

Conclusion

This exploratory research has introduced the empirical side of private financial crime investigations and fraud examinations. More empirical material is needed to be able to conduct research in terms of hypotheses testing and validation. Contents analysis of investigation reports needs to rely on multiple raters based on criteria for classification of verbatim findings in reports.

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